



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2588

Introduced 1/20/2006, by Sen. John J. Millner

SYNOPSIS AS INTRODUCED:

55 ILCS 5/3-6040 new
65 ILCS 5/11-1-12 new
105 ILCS 5/10-21.9 from Ch. 122, par. 10-21.9
105 ILCS 5/34-18.5 from Ch. 122, par. 34-18.5

Amends the Counties Code, the Illinois Municipal Code, and the School Code. Provides that a municipal police department, or the county sheriff's office of a county if the school district, park district, or college or university is located in an unincorporated area or in a municipality without a police department, upon request of a public school district, public park district, or public college or university located within the municipality or located in an unincorporated area of the county or within a municipality that does not have a police department, may conduct a fingerprint-based criminal history records check to determine if an applicant for employment with the district, college, or university has been convicted of any offense that would disqualify the applicant for employment with the district, college, or university. Provides that the information obtained from the background check is confidential. Provides that any person who releases any confidential information concerning any criminal convictions of an applicant for employment shall be guilty of a Class A misdemeanor, unless the release of such information is authorized by law.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning criminal background checks.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by adding Section
5 3-6040 as follows:

6 (55 ILCS 5/3-6040 new)

7 Sec. 3-6040. County sheriffs offices; criminal background
8 checks.

9 (a) A county sheriff's office of a county may, upon request
10 of a public school district, public park district, or public
11 college or university located within an unincorporated area of
12 the county or within a municipality that does not have a police
13 department, conduct a fingerprint-based criminal history
14 records check to determine if an applicant for employment with
15 the district, college, or university has been convicted of any
16 offense that would disqualify the applicant for employment with
17 the district, college, or university. Authorization for the
18 check shall be furnished by the applicant to the school
19 district, park district, college, or university. Upon receipt
20 of this authorization, the school district, park district,
21 college, or university shall submit the applicant's name, sex,
22 race, date of birth, social security number, fingerprint
23 images, and other identifiers, as prescribed by the county
24 sheriff's office, to the county sheriff's office. The county
25 sheriff's office and the Federal Bureau of Investigation shall
26 furnish, pursuant to a fingerprint-based criminal history
27 records check, records of convictions, until expunged, to the
28 president of the school board for the school district,
29 president of the park district for the park district, or
30 president of the college or university for the college or
31 university that requested the check. The county sheriff's
32 office shall charge the school district, park district,

1 college, or university a fee for conducting such check, which
2 fee shall be deposited into the county treasury and shall not
3 exceed the cost of the inquiry; and the applicant shall not be
4 charged a fee for such check by the school district, park
5 district, college or university.

6 (b) Any information concerning the record of convictions
7 obtained by the president of the school board, president of the
8 park district, or president of the college or university shall
9 be confidential and may be transmitted only to the
10 superintendent of the school district, superintendent of the
11 park district, or chancellor of the college or university or
12 his or her designee. A copy of the record of convictions
13 obtained from the county sheriff's office shall be provided to
14 the applicant for employment.

15 (c) Any person who releases any confidential information
16 concerning any criminal convictions of an applicant for
17 employment shall be guilty of a Class A misdemeanor, unless the
18 release of such information is authorized by law.

19 Section 10. The Illinois Municipal Code is amended by
20 adding Section 11-1-12 as follows:

21 (65 ILCS 5/11-1-12 new)

22 Sec. 11-1-12. Municipal police departments; criminal
23 background checks.

24 (a) A police department of a municipality may, upon request
25 of a public school district, public park district, or public
26 college or university located within the municipality, conduct
27 a fingerprint-based criminal history records check to
28 determine if an applicant for employment with the district,
29 college, or university has been convicted of any offense that
30 would disqualify the applicant for employment with the
31 district, college, or university. Authorization for the check
32 shall be furnished by the applicant to the school district,
33 park district, college, or university. Upon receipt of this
34 authorization, the school district, park district, college, or

1 university shall submit the applicant's name, sex, race, date
2 of birth, social security number, fingerprint images, and other
3 identifiers, as prescribed by the municipal police department,
4 to the municipal police department. The municipal police
5 department and the Federal Bureau of Investigation shall
6 furnish, pursuant to a fingerprint-based criminal history
7 records check, records of convictions, until expunged, to the
8 president of the school board for the school district,
9 president of the park district for the park district, or
10 president of the college or university for the college or
11 university that requested the check. The municipal police
12 department shall charge the school district, park district,
13 college, or university a fee for conducting such check, which
14 fee shall be deposited into the municipal treasury and shall
15 not exceed the cost of the inquiry; and the applicant shall not
16 be charged a fee for such check by the school district, park
17 district, college or university.

18 (b) Any information concerning the record of convictions
19 obtained by the president of the school board, president of the
20 park district, or president of the college or university shall
21 be confidential and may be transmitted only to the
22 superintendent of the school district, superintendent of the
23 park district, or chancellor of the college or university or
24 his or her designee. A copy of the record of convictions
25 obtained from the municipal police department shall be provided
26 to the applicant for employment.

27 (c) Any person who releases any confidential information
28 concerning any criminal convictions of an applicant for
29 employment shall be guilty of a Class A misdemeanor, unless the
30 release of such information is authorized by law.

31 Section 15. The School Code is amended by changing Sections
32 10-21.9 and 34-18.5 as follows:

33 (105 ILCS 5/10-21.9) (from Ch. 122, par. 10-21.9)

34 Sec. 10-21.9. Criminal history records checks and checks of

1 the Statewide Sex Offender Database.

2 (a) Certified and noncertified applicants for employment
3 with a school district, except school bus driver applicants,
4 are required as a condition of employment to authorize a
5 fingerprint-based criminal history records check to determine
6 if such applicants have been convicted of any of the enumerated
7 criminal or drug offenses in subsection (c) of this Section or
8 have been convicted, within 7 years of the application for
9 employment with the school district, of any other felony under
10 the laws of this State or of any offense committed or attempted
11 in any other state or against the laws of the United States
12 that, if committed or attempted in this State, would have been
13 punishable as a felony under the laws of this State.
14 Authorization for the check shall be furnished by the applicant
15 to the school district, except that if the applicant is a
16 substitute teacher seeking employment in more than one school
17 district, a teacher seeking concurrent part-time employment
18 positions with more than one school district (as a reading
19 specialist, special education teacher or otherwise), or an
20 educational support personnel employee seeking employment
21 positions with more than one district, any such district may
22 require the applicant to furnish authorization for the check to
23 the regional superintendent of the educational service region
24 in which are located the school districts in which the
25 applicant is seeking employment as a substitute or concurrent
26 part-time teacher or concurrent educational support personnel
27 employee. Upon receipt of this authorization, the school
28 district or the appropriate regional superintendent, as the
29 case may be, shall submit the applicant's name, sex, race, date
30 of birth, social security number, fingerprint images, and other
31 identifiers, as prescribed by the Department of State Police,
32 to the Department. The regional superintendent submitting the
33 requisite information to the Department of State Police shall
34 promptly notify the school districts in which the applicant is
35 seeking employment as a substitute or concurrent part-time
36 teacher or concurrent educational support personnel employee

1 that the check of the applicant has been requested. The
2 Department of State Police and the Federal Bureau of
3 Investigation shall furnish, pursuant to a fingerprint-based
4 criminal history records check, records of convictions, until
5 expunged, to the president of the school board for the school
6 district that requested the check, or to the regional
7 superintendent who requested the check. The Department shall
8 charge the school district or the appropriate regional
9 superintendent a fee for conducting such check, which fee shall
10 be deposited in the State Police Services Fund and shall not
11 exceed the cost of the inquiry; and the applicant shall not be
12 charged a fee for such check by the school district or by the
13 regional superintendent. Subject to appropriations for these
14 purposes, the State Superintendent of Education shall
15 reimburse school districts and regional superintendents for
16 fees paid to obtain criminal history records checks under this
17 Section.

18 (a-5) The school district or regional superintendent shall
19 further perform a check of the Statewide Sex Offender Database,
20 as authorized by the Sex Offender and Child Murderer Community
21 Notification Law, for each applicant.

22 (b) Any information concerning the record of convictions
23 obtained by the president of the school board or the regional
24 superintendent shall be confidential and may only be
25 transmitted to the superintendent of the school district or his
26 designee, the appropriate regional superintendent if the check
27 was requested by the school district, the presidents of the
28 appropriate school boards if the check was requested from the
29 Department of State Police by the regional superintendent, the
30 State Superintendent of Education, the State Teacher
31 Certification Board or any other person necessary to the
32 decision of hiring the applicant for employment. A copy of the
33 record of convictions obtained from the Department of State
34 Police shall be provided to the applicant for employment. Upon
35 the check of the Statewide Sex Offender Database, the school
36 district or regional superintendent shall notify an applicant

1 as to whether or not the applicant has been identified in the
2 Database as a sex offender. If a check of an applicant for
3 employment as a substitute or concurrent part-time teacher or
4 concurrent educational support personnel employee in more than
5 one school district was requested by the regional
6 superintendent, and the Department of State Police upon a check
7 ascertains that the applicant has not been convicted of any of
8 the enumerated criminal or drug offenses in subsection (c) or
9 has not been convicted, within 7 years of the application for
10 employment with the school district, of any other felony under
11 the laws of this State or of any offense committed or attempted
12 in any other state or against the laws of the United States
13 that, if committed or attempted in this State, would have been
14 punishable as a felony under the laws of this State and so
15 notifies the regional superintendent and if the regional
16 superintendent upon a check ascertains that the applicant has
17 not been identified in the Sex Offender Database as a sex
18 offender, then the regional superintendent shall issue to the
19 applicant a certificate evidencing that as of the date
20 specified by the Department of State Police the applicant has
21 not been convicted of any of the enumerated criminal or drug
22 offenses in subsection (c) or has not been convicted, within 7
23 years of the application for employment with the school
24 district, of any other felony under the laws of this State or
25 of any offense committed or attempted in any other state or
26 against the laws of the United States that, if committed or
27 attempted in this State, would have been punishable as a felony
28 under the laws of this State and evidencing that as of the date
29 that the regional superintendent conducted a check of the
30 Statewide Sex Offender Database, the applicant has not been
31 identified in the Database as a sex offender. The school board
32 of any school district located in the educational service
33 region served by the regional superintendent who issues such a
34 certificate to an applicant for employment as a substitute
35 teacher in more than one such district may rely on the
36 certificate issued by the regional superintendent to that

1 applicant, or may initiate its own criminal history records
2 check of the applicant through the Department of State Police
3 and its own check of the Statewide Sex Offender Database as
4 provided in subsection (a). Any person who releases any
5 confidential information concerning any criminal convictions
6 of an applicant for employment shall be guilty of a Class A
7 misdemeanor, unless the release of such information is
8 authorized by this Section.

9 (c) No school board shall knowingly employ a person who has
10 been convicted for committing attempted first degree murder or
11 for committing or attempting to commit first degree murder or a
12 Class X felony or any one or more of the following offenses:
13 (i) those defined in Sections 11-6, 11-9, 11-14, 11-15,
14 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20,
15 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15 and 12-16 of the
16 Criminal Code of 1961; (ii) those defined in the Cannabis
17 Control Act except those defined in Sections 4(a), 4(b) and
18 5(a) of that Act; (iii) those defined in the Illinois
19 Controlled Substances Act; (iv) those defined in the
20 Methamphetamine Control and Community Protection Act; and (v)
21 any offense committed or attempted in any other state or
22 against the laws of the United States, which if committed or
23 attempted in this State, would have been punishable as one or
24 more of the foregoing offenses. Further, no school board shall
25 knowingly employ a person who has been found to be the
26 perpetrator of sexual or physical abuse of any minor under 18
27 years of age pursuant to proceedings under Article II of the
28 Juvenile Court Act of 1987.

29 (d) No school board shall knowingly employ a person for
30 whom a criminal history records check and a Statewide Sex
31 Offender Database check has not been initiated.

32 (e) Upon receipt of the record of a conviction of or a
33 finding of child abuse by a holder of any certificate issued
34 pursuant to Article 21 or Section 34-8.1 or 34-83 of the School
35 Code, the appropriate regional superintendent of schools or the
36 State Superintendent of Education shall initiate the

1 certificate suspension and revocation proceedings authorized
2 by law.

3 (f) After January 1, 1990 the provisions of this Section
4 shall apply to all employees of persons or firms holding
5 contracts with any school district including, but not limited
6 to, food service workers, school bus drivers and other
7 transportation employees, who have direct, daily contact with
8 the pupils of any school in such district. For purposes of
9 criminal history records checks and checks of the Statewide Sex
10 Offender Database on employees of persons or firms holding
11 contracts with more than one school district and assigned to
12 more than one school district, the regional superintendent of
13 the educational service region in which the contracting school
14 districts are located may, at the request of any such school
15 district, be responsible for receiving the authorization for a
16 criminal history records check prepared by each such employee
17 and submitting the same to the Department of State Police and
18 for conducting a check of the Statewide Sex Offender Database
19 for each employee. Any information concerning the record of
20 conviction and identification as a sex offender of any such
21 employee obtained by the regional superintendent shall be
22 promptly reported to the president of the appropriate school
23 board or school boards.

24 (g) The criminal history records check required by this
25 Section may be conducted by a county sheriff's office or a
26 municipal police department as provided in Section 3-6040 of
27 the Counties Code or Section 11-1-12 of the Illinois Municipal
28 Code.

29 (Source: P.A. 93-418, eff. 1-1-04; 93-909, eff. 8-12-04;
30 94-219, eff. 7-14-05; 94-556, eff. 9-11-05; revised 8-19-05.)

31 (105 ILCS 5/34-18.5) (from Ch. 122, par. 34-18.5)

32 Sec. 34-18.5. Criminal history records checks and checks of
33 the Statewide Sex Offender Database.

34 (a) Certified and noncertified applicants for employment
35 with the school district are required as a condition of

1 employment to authorize a fingerprint-based criminal history
2 records check to determine if such applicants have been
3 convicted of any of the enumerated criminal or drug offenses in
4 subsection (c) of this Section or have been convicted, within 7
5 years of the application for employment with the school
6 district, of any other felony under the laws of this State or
7 of any offense committed or attempted in any other state or
8 against the laws of the United States that, if committed or
9 attempted in this State, would have been punishable as a felony
10 under the laws of this State. Authorization for the check shall
11 be furnished by the applicant to the school district, except
12 that if the applicant is a substitute teacher seeking
13 employment in more than one school district, or a teacher
14 seeking concurrent part-time employment positions with more
15 than one school district (as a reading specialist, special
16 education teacher or otherwise), or an educational support
17 personnel employee seeking employment positions with more than
18 one district, any such district may require the applicant to
19 furnish authorization for the check to the regional
20 superintendent of the educational service region in which are
21 located the school districts in which the applicant is seeking
22 employment as a substitute or concurrent part-time teacher or
23 concurrent educational support personnel employee. Upon
24 receipt of this authorization, the school district or the
25 appropriate regional superintendent, as the case may be, shall
26 submit the applicant's name, sex, race, date of birth, social
27 security number, fingerprint images, and other identifiers, as
28 prescribed by the Department of State Police, to the
29 Department. The regional superintendent submitting the
30 requisite information to the Department of State Police shall
31 promptly notify the school districts in which the applicant is
32 seeking employment as a substitute or concurrent part-time
33 teacher or concurrent educational support personnel employee
34 that the check of the applicant has been requested. The
35 Department of State Police and the Federal Bureau of
36 Investigation shall furnish, pursuant to a fingerprint-based

1 criminal history records check, records of convictions, until
2 expunged, to the president of the school board for the school
3 district that requested the check, or to the regional
4 superintendent who requested the check. The Department shall
5 charge the school district or the appropriate regional
6 superintendent a fee for conducting such check, which fee shall
7 be deposited in the State Police Services Fund and shall not
8 exceed the cost of the inquiry; and the applicant shall not be
9 charged a fee for such check by the school district or by the
10 regional superintendent. Subject to appropriations for these
11 purposes, the State Superintendent of Education shall
12 reimburse the school district and regional superintendent for
13 fees paid to obtain criminal history records checks under this
14 Section.

15 (a-5) The school district or regional superintendent shall
16 further perform a check of the Statewide Sex Offender Database,
17 as authorized by the Sex Offender and Child Murderer Community
18 Notification Law, for each applicant.

19 (b) Any information concerning the record of convictions
20 obtained by the president of the board of education or the
21 regional superintendent shall be confidential and may only be
22 transmitted to the general superintendent of the school
23 district or his designee, the appropriate regional
24 superintendent if the check was requested by the board of
25 education for the school district, the presidents of the
26 appropriate board of education or school boards if the check
27 was requested from the Department of State Police by the
28 regional superintendent, the State Superintendent of
29 Education, the State Teacher Certification Board or any other
30 person necessary to the decision of hiring the applicant for
31 employment. A copy of the record of convictions obtained from
32 the Department of State Police shall be provided to the
33 applicant for employment. Upon the check of the Statewide Sex
34 Offender Database, the school district or regional
35 superintendent shall notify an applicant as to whether or not
36 the applicant has been identified in the Database as a sex

1 offender. If a check of an applicant for employment as a
2 substitute or concurrent part-time teacher or concurrent
3 educational support personnel employee in more than one school
4 district was requested by the regional superintendent, and the
5 Department of State Police upon a check ascertains that the
6 applicant has not been convicted of any of the enumerated
7 criminal or drug offenses in subsection (c) or has not been
8 convicted, within 7 years of the application for employment
9 with the school district, of any other felony under the laws of
10 this State or of any offense committed or attempted in any
11 other state or against the laws of the United States that, if
12 committed or attempted in this State, would have been
13 punishable as a felony under the laws of this State and so
14 notifies the regional superintendent and if the regional
15 superintendent upon a check ascertains that the applicant has
16 not been identified in the Sex Offender Database as a sex
17 offender, then the regional superintendent shall issue to the
18 applicant a certificate evidencing that as of the date
19 specified by the Department of State Police the applicant has
20 not been convicted of any of the enumerated criminal or drug
21 offenses in subsection (c) or has not been convicted, within 7
22 years of the application for employment with the school
23 district, of any other felony under the laws of this State or
24 of any offense committed or attempted in any other state or
25 against the laws of the United States that, if committed or
26 attempted in this State, would have been punishable as a felony
27 under the laws of this State and evidencing that as of the date
28 that the regional superintendent conducted a check of the
29 Statewide Sex Offender Database, the applicant has not been
30 identified in the Database as a sex offender. The school board
31 of any school district located in the educational service
32 region served by the regional superintendent who issues such a
33 certificate to an applicant for employment as a substitute or
34 concurrent part-time teacher or concurrent educational support
35 personnel employee in more than one such district may rely on
36 the certificate issued by the regional superintendent to that

1 applicant, or may initiate its own criminal history records
2 check of the applicant through the Department of State Police
3 and its own check of the Statewide Sex Offender Database as
4 provided in subsection (a). Any person who releases any
5 confidential information concerning any criminal convictions
6 of an applicant for employment shall be guilty of a Class A
7 misdemeanor, unless the release of such information is
8 authorized by this Section.

9 (c) The board of education shall not knowingly employ a
10 person who has been convicted for committing attempted first
11 degree murder or for committing or attempting to commit first
12 degree murder or a Class X felony or any one or more of the
13 following offenses: (i) those defined in Sections 11-6, 11-9,
14 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1,
15 11-19.2, 11-20, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15
16 and 12-16 of the Criminal Code of 1961; (ii) those defined in
17 the Cannabis Control Act, except those defined in Sections
18 4(a), 4(b) and 5(a) of that Act; (iii) those defined in the
19 Illinois Controlled Substances Act; (iv) those defined in the
20 Methamphetamine Control and Community Protection Act; and (v)
21 any offense committed or attempted in any other state or
22 against the laws of the United States, which if committed or
23 attempted in this State, would have been punishable as one or
24 more of the foregoing offenses. Further, the board of education
25 shall not knowingly employ a person who has been found to be
26 the perpetrator of sexual or physical abuse of any minor under
27 18 years of age pursuant to proceedings under Article II of the
28 Juvenile Court Act of 1987.

29 (d) The board of education shall not knowingly employ a
30 person for whom a criminal history records check and a
31 Statewide Sex Offender Database check has not been initiated.

32 (e) Upon receipt of the record of a conviction of or a
33 finding of child abuse by a holder of any certificate issued
34 pursuant to Article 21 or Section 34-8.1 or 34-83 of the School
35 Code, the board of education or the State Superintendent of
36 Education shall initiate the certificate suspension and

1 revocation proceedings authorized by law.

2 (f) After March 19, 1990, the provisions of this Section
3 shall apply to all employees of persons or firms holding
4 contracts with any school district including, but not limited
5 to, food service workers, school bus drivers and other
6 transportation employees, who have direct, daily contact with
7 the pupils of any school in such district. For purposes of
8 criminal history records checks and checks of the Statewide Sex
9 Offender Database on employees of persons or firms holding
10 contracts with more than one school district and assigned to
11 more than one school district, the regional superintendent of
12 the educational service region in which the contracting school
13 districts are located may, at the request of any such school
14 district, be responsible for receiving the authorization for a
15 criminal history records check prepared by each such employee
16 and submitting the same to the Department of State Police and
17 for conducting a check of the Statewide Sex Offender Database
18 for each employee. Any information concerning the record of
19 conviction and identification as a sex offender of any such
20 employee obtained by the regional superintendent shall be
21 promptly reported to the president of the appropriate school
22 board or school boards.

23 (g) The criminal history records check required by this
24 Section may be conducted by a county sheriff's office or a
25 municipal police department as provided in Section 3-6040 of
26 the Counties Code or Section 11-1-12 of the Illinois Municipal
27 Code.

28 (Source: P.A. 93-418, eff. 1-1-04; 93-909, eff. 8-12-04;
29 94-219, eff. 7-14-05; 94-556, eff. 9-11-05; revised 8-19-05.)